

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

NOAH JAMES GOLDSMITH,

Plaintiff,

v.

MIKE JONES, et al.,

Defendants.

No. 1:23-CV-135 SRW

OPINION, MEMORANDUM AND ORDER

Before the Court is plaintiff's motion for extension of time to pay his initial partial filing fee and file an amended complaint on a court-provided form. After review of the recording in this matter, the Court will provide plaintiff an additional twenty-one (21) days to pay his initial partial filing fee of \$1.00, as well as file an amended complaint on a court-provided form. His failure to do so will result in the dismissal of this action, without prejudice.

Background

Plaintiff Noah Goldsmith, an inmate at Butler County Jail, filed the instant civil rights action brought pursuant to 42 U.S.C. § 1983 on August 16, 2023. [ECF No. 1]. At all times relevant to the allegations in his complaint, plaintiff appears to have been a pre-trial detainee housed at the Butler County Jail in Poplar Bluff, Missouri. On November 7, 2023, the Court granted plaintiff leave to proceed in forma pauperis, reviewed plaintiff's complaint pursuant to 28 U.S.C. § 1915 and assessed an initial partial filing fee of \$1.00. [ECF No. 6]. In the Opinion, Memorandum and Order issued on November 7, 2023, the Court Ordered plaintiff to amend his complaint on a court-

provided form no later than November 28, 2023. *Id.* Plaintiff was also required to pay the initial partial filing fee of \$1.00 by that same date.¹ *Id.*

When plaintiff failed to amend his complaint in a timely manner or pay the initial partial filing fee, the Court dismissed this action in accordance with Federal Rule of Civil Procedure 41(b) on December 5, 2023, due to plaintiff's failure to comply with a Court Order. [ECF No. 7]. However, on December 7, 2023, plaintiff filed a motion for extension of time in this matter, seeking "an extension to return" his amended complaint. [ECF No. 9].

Motion for Extension

In plaintiff's motion for extension of time, he states that he did not receive a copy of the Court's November 7, 2023 Opinion, Memorandum and Order requiring him to amend his complaint and pay his initial partial filing fee until December 1, 2023. [ECF No. 9]. He seeks an open-ended extension of time to provide the amended complaint to the Court due to his failure to receive the Order in a timely fashion.

The Court will provide plaintiff an additional twenty-one (21) days to file an amended complaint on a court-provided form in this matter. In drafting his amended complaint, plaintiff must comply with all instructions set forth in the Court's November 7, 2023 Opinion, Memorandum and Order. Further, because the Court has still not received plaintiff's initial partial filing fee of \$1.00, he will be required to provide his initial partial filing fee to proceed with his lawsuit.

Accordingly,

IT IS HEREBY ORDERED that the Court shall **REOPEN** the present action.

¹Plaintiff's motion for appointment of counsel was denied in the Opinion, Memorandum and Order entered on November 7, 2023. [ECF No. 6].

IT IS FURTHER ORDERED that plaintiff's motion for extension of time to pay his initial partial filing fee and file an amended complaint [ECF No. 9] is **GRANTED**.

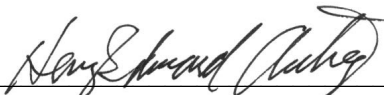
IT IS FURTHER ORDERED that plaintiff shall pay an initial filing fee of \$1.00 within twenty-one (21) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that the Clerk of Court shall mail to plaintiff a blank Prisoner Civil Rights Complaint form.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint on the Court-provided form in accordance with the instructions stated in the November 7, 2023 Opinion, Memorandum and Order within twenty-one (21) days of the date of this Order. Plaintiff is advised that his amended complaint will take the place of his original filing and will be the only pleading that this Court will review.

IT IS FINALLY ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 4th day of January, 2024.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE